

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CHARLES A. VERRY,)
)
Plaintiff,)
)
vs.) Case No. CIV-05-1121-F
)
CITY OF EL RENO, OKLAHOMA,)
)
Defendant.)

ORDER

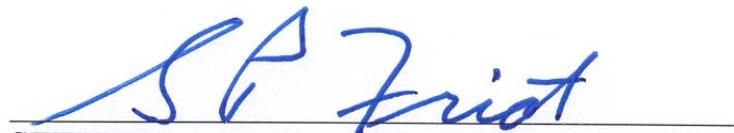
Plaintiff's "Motion for New Trial [and] for Entry of New Judgment," filed December 5, 2005, is before the court. (Doc. no. 22.) Plaintiff appears pro se, and his pleadings are liberally construed.

The motion states that it is brought under Fed. R. Civ. P. 52. Rule 52 provides that in actions tried upon the facts without a jury or with an advisory jury, a party may move for amendment of the court's fact-findings within ten days after the entry of judgment. This action was not tried upon the facts by the court; the court's Order of November 29, 2005, which dismissed this action, includes no fact-findings. Rather, the November 29 Order states the court's conclusion that the Complaint in this action is insufficient as a matter of law under Rule 8 and Rule 12(b)(6), and the Order dismisses the Complaint with prejudice on that basis. Rule 52 further states that a motion under that rule may accompany a motion for a new trial under Fed. R. Civ. P. 59. Although Mr. Verry's motion does not reference Rule 59, the motion is entitled as a motion for a new trial. For all of these reasons, the court construes Mr. Verry's motion as a request that the court reconsider its rulings of November 29, 2005, and as

a motion under Rule 59 asking the court to vacate or amend its dismissal Order and its entry of Judgment in defendant's favor.

Mr. Verry's motion merely restates a number of allegations contained in the Complaint. As already noted, in the course of evaluating Mr. Verry's prior motions, the court previously considered the sufficiency of the Complaint and concluded that the City of El Reno is entitled to dismissal of this action under Rules 8 and 12(b)(6). Mr. Verry's motion states no grounds for a different result. Accordingly, after careful consideration, plaintiff's "Motion for New Trial [and] for Entry of New Judgment" is **DENIED**.

Dated this 7th day of December, 2005.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

05-1121p008(pub).wpd